



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

August 2, 2016

Chris Ashby  
717 Princess St.  
Alexandria, VA 22314

RE: MUR 6724  
Bachmann for President and  
Nancy Watkins, as treasurer

Dear Mr. Ashby:

On February 28, 2013, the Federal Election Commission notified your client of the complaint in MUR 6724 and submission in Pre-MUR 560 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). On May 16, 2013, the Commission received your client's response to the complaint. On July 8, 2013, the Commission notified your client that in the normal course of carrying out its supervisory responsibilities, it had come to the Commission's attention that your client may have violated the Act. On September 10, 2013, the Commission received your client's response.

After reviewing the allegations contained in the complaint and responses, the Commission on June 16, 2016, found reason to believe that Bachmann for President and Nancy Watkins in her official capacity as treasurer violated 52 U.S.C. §§ 30104(b)(5), 30116(f), and 30104(b)(2)(D). Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to your clients as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that your clients violated the law.

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If your clients are interested in engaging in pre-probable cause conciliation, please contact Peter Reynolds, the attorney assigned to this matter, at (202) 694-1343 within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if your clients are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

On behalf of the Commission,



Chairman Matthew Petersen

Enclosures

Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5 RESPONDENTS: Bachmann for President and Nancy MUR: 6724  
6 H. Watkins in her official capacity  
7 as treasurer  
8  
9 Many Individual Conservatives Helping  
10 Elect Leaders Everywhere (MichelePAC)  
11 and Barry Arrington in his official capacity  
12 as treasurer  
13  
14 Nancy H. Watkins in her individual capacity  
15  
16

17 **I. INTRODUCTION**

18 This matter was generated by a complaint filed by Peter Waldron and a referral from the  
19 Office of Congressional Ethics ("OCE Referral") alleging that presidential candidate Michele  
20 Bachmann's principal campaign committee, Bachmann for President and Nancy H. Watkins in  
21 her official capacity as treasurer (the "Committee"), and her leadership PAC, Many Individual  
22 Conservatives Helping Elect Leaders Everywhere PAC and Barry Arrington in his official  
23 capacity as treasurer ("MichelePAC"), among others, engaged in various transactions that  
24 violated the Federal Election Campaign Act of 1971, as amended (the "Act").

25 As discussed below in greater detail, the Commission finds reason to believe that the  
26 Committee and MichelePAC failed to properly disclose their disbursements pursuant to 52  
27 U.S.C. § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5)). The Commission also finds reason to  
28 believe that MichelePAC made excessive in-kind contributions to the Committee when it paid  
29 C&M's fees for work done for the Committee, and reason to believe that the Committee  
30 knowingly accepted the excessive in-kind contributions and failed to properly report them in  
31 violation of 52 U.S.C. § 30116 (formerly 2 U.S.C. § 441a). Finally, the Commission finds no

reason to believe that Nancy H. Watkins in her individual capacity violated 52 U.S.C. § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5)).

## II. FACTUAL AND LEGAL ANALYSIS

### A. Facts

Bachmann for President was Representative Michele Bachmann's principal campaign committee during her 2012 presidential campaign.<sup>1</sup> MichelePAC is Bachmann's leadership PAC.<sup>2</sup> Short is the sole principal of C&M, a political consulting firm that was retained by each of the Bachmann Committees during Bachmann's 2012 presidential campaign.<sup>3</sup> Through these arrangements, Short acted as the Committee's National Political Director and MichelePAC's Executive Director.<sup>4</sup> Kent Sorenson was an Iowa state senator and the Committee's Iowa State Chairman from shortly after its establishment in June 2011 through November 2011.<sup>5</sup> He is the sole principal of Grassroots Strategy, Inc. ("Grassroots"), a political consulting firm that was hired to support each of the Bachmann Committees during the 2012 election cycle.<sup>6</sup>

In "early 2011" Andy Parrish, Bachmann's former Chief of Staff, personally recruited Sorenson to support Bachmann's presidential campaign.<sup>7</sup> On March 11, 2011, Sorenson became

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<sup>1</sup> Bachmann for President Statement of Organization at 2 (June 8, 2011).

<sup>2</sup> MichelePAC Resp. at 1.

<sup>3</sup> Short Resp. at 1.

<sup>4</sup> Compl. at 1.

<sup>5</sup> OCE Referral ¶ 1.

<sup>6</sup> *Id.* ¶ 35; MichelePAC Resp. at 2; Short Resp. at 1-2. According to its public filings with the Iowa Secretary of State, Sorenson incorporated Grassroots as a domestic profit corporation in 2010, listing himself as its incorporator/director. Grassroots reports no other directors or officers. See IOWA SEC'Y OF STATE, [http://sos.iowa.gov/search/business/\(S\(xnyuv445jwlefg455viubm45\)\)/officers.aspx](http://sos.iowa.gov/search/business/(S(xnyuv445jwlefg455viubm45))/officers.aspx) (last visited Apr. 2, 2014).

<sup>7</sup> OCE Referral ¶ 5.

1 the first elected official in Iowa to endorse Bachmann's candidacy.<sup>8</sup> Sorenson then began  
2 "providing strategic advice about the Iowa political landscape, recommending staff members to  
3 the campaign, recruiting other Iowa legislators to the Bachmann cause, and making  
4 communications on the campaign's behalf."<sup>9</sup> According to Parrish, it became clear that  
5 "Sorenson would require payment in exchange for his work on the Bachmann campaign."<sup>10</sup>  
6 Sorenson and Parrish allegedly believed that Iowa Senate Code of Ethics prohibited Sorenson  
7 from accepting payment from the Committee or MichelePAC.<sup>11</sup> Over the course of March and  
8 April 2011, Sorenson, Parrish, and Short negotiated the terms of the arrangement, ultimately  
9 agreeing that the Committee would pay an additional \$7,500 per month to C&M under the  
10 existing \$15,000 per month contract (for a total of \$22,500 per month), and C&M would then  
11 pass the additional amount to Sorenson through Grassroots.<sup>12</sup> The OCE Referral notes that  
12 "OCE has received no information" that Sorenson took direction from Short or performed any  
13 work for C&M, and that "it does not appear that C&M exercised any independent control over

<sup>8</sup> Report to the Senate Ethics Committee on the Investigation of State Senator Kent Sorenson, 39 (Oct. 2, 2013), available at [http://archive.desmoinesregister.com/assets/pdf/Sorenson\\_investigation\\_part1.pdf](http://archive.desmoinesregister.com/assets/pdf/Sorenson_investigation_part1.pdf) (Volume I) and [http://archive.desmoinesregister.com/assets/pdf/Sorenson\\_investigation\\_part2.pdf](http://archive.desmoinesregister.com/assets/pdf/Sorenson_investigation_part2.pdf) (Volume II) ("Independent Investigator's Report").

<sup>9</sup> *Id.* at 39-40.

<sup>10</sup> *Id.* at 40; see OCE Referral ¶ 6.

<sup>11</sup> OCE Referral ¶ 7. Most of the documents in the OCE Referral assume that Sorenson, as a sitting state senator, was prohibited by state law from being paid by the Committee. The Committee notes in its Response, however, that Iowa state law appears to exempt federal campaigns from the restriction placed on state officeholders, including members of the Iowa senate. See Committee Resp. at 7. In any event, the Iowa Supreme Court appointed an independent investigator who found probable cause to believe that Sorenson violated the Iowa Senate Code of Ethics by accepting compensation from MichelePAC (and possibly violated the Code by accepting compensation from the Committee) for his work on the Bachmann campaign. See Independent Investigator's Report at 4-5. Sorenson resigned after the release of the independent investigator's report.

<sup>12</sup> OCE Referral ¶¶ 6-19. C&M would pass along a total of \$59,915 — \$7,489 per month for eight months — to Sorenson/Grassroots over the course of 2011. Independent Investigator's Report at 48-49.

1 the funds it received” from the Committee that were “earmarked” for Sorenson.<sup>13</sup> Accordingly,  
2 the OCE Referral concludes that the Committee paid Sorenson \$7,500 per month but “routed”  
3 the payments through C&M to avoid disclosing that Sorensen was the intended recipient.<sup>14</sup>

4 Although the Committee was not yet established, Short and Sorenson were already  
5 working on behalf of Bachmann’s candidacy. During May, MichelePAC paid \$24,000 to  
6 C&M.<sup>15</sup> Grassroots received its first payment from C&M on May 16 in the amount of \$8,275.<sup>16</sup>  
7 After the Committee officially formed in June, it entered into the previously arranged contract  
8 with C&M, which ran from June 13 to December 31.<sup>17</sup> Pursuant to that contract, the Committee  
9 made the following payments to C&M: \$33,750 on July 29 (presumably covering half of June  
10 and all of July at a monthly rate of \$22,500); \$25,830 on September 12 (covering August  
11 services); \$22,500 on October 11 (covering September services); and \$22,500 on November 9  
12 (covering October services).<sup>18</sup> The record shows no payments made from the Committee to  
13 C&M for services performed during November and December 2011, despite the fact that various  
14 witness accounts provided with the OCE Referral state that Short worked on a full-time basis for

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<sup>13</sup> OCE Referral ¶¶ 26, 28.

<sup>14</sup> *Id.*

<sup>15</sup> See Independent Investigator’s Report at 47-49.

<sup>16</sup> *Id.* at 48.

<sup>17</sup> Committee Resp., Attach. B; OCE Referral ¶ 15, Ex. 9; see Committee Resp., Attach. C (showing invoices from C&M to the Committee at a monthly rate of \$22,500).

<sup>18</sup> See 2011 October Quarterly Report; 2011 Year End Report.

1 the Committee in late 2011 and early 2012.<sup>19</sup> This time period is approximately when the  
2 Committee began running short of funds.<sup>20</sup>

3 As the Committee ceased its payments to C&M, MichelePAC's payments to C&M saw a  
4 corresponding increase. MichelePAC — which had been paying \$5,000 per month to C&M  
5 since the Committee's establishment in mid-June — then paid \$20,000 on December 6, 2011,  
6 and \$20,000 on January 3, 2012, for "fundraising consulting."<sup>21</sup> Combined with a \$5,000  
7 payment from MichelePAC to C&M on November 30,<sup>22</sup> MichelePAC appears to have paid a  
8 total of \$45,000 to C&M for services rendered in November and December, the same amount  
9 that the Committee owed to C&M and Grassroots (\$22,500 per month) for their work over that  
10 period.<sup>23</sup>

11 In addition to the allegations surrounding payments to C&M and Grassroots, the  
12 Complaint further alleges that the Committee coordinated media buys and placement with NFC  
13 PAC, a "hybrid PAC" registered with the Commission.<sup>24</sup> The allegations are based on a  
14 discussion that Complainant represents he personally witnessed in late 2011 between Committee

<sup>19</sup> See, e.g., Parrish MOI ¶¶ 37-40; OCE Referral, Mem. of Interview, Robert Heckman ¶¶ 22-23 (Mar. 26, 2013) ("Heckman MOI"); Woolson MOI ¶¶ 10, 14, 16. We are not aware of any information about any discussion or agreement between C&M and the Committee to amend the contract to relieve the Committee from its obligation to pay C&M its monthly consulting fee through December 31, 2011. The Committee also did not disclose any debts or obligations to C&M on its 2011 Year End Report covering the last quarter of the year (and just a \$1,532.70 debt to Short during that time, which it listed as "mileage" when it reimbursed him on January 4, 2013).

<sup>20</sup> See Bachmann MOI ¶ 40; Parrish MOI ¶ 41; Woolson MOI ¶¶ 17-18.

<sup>21</sup> See Committee Resp., Attach. F, BFP\_FEC-000163-164.

<sup>22</sup> *Id.* at BFP\_FEC-000162.

<sup>23</sup> Sorenson shifted his support to Ron Paul in December 2011. Parrish Aff. ¶ 5.

<sup>24</sup> Compl. at 3.

1 “Senior Advisor and Speech Coach Brett O’Donnell” and NFC PAC president Bill Hemrick.<sup>25</sup>  
2 NFC PAC’s disclosure reports reveal disbursements totaling \$13,950 to “Clear Channel”<sup>26</sup>  
3 between January 3 and 6, 2012.<sup>27</sup>

4 In response to its alleged failure to accurately disclose its disbursements, the Committee  
5 states that it properly reported all payments to C&M, its “primary vendor,” and that the Act and  
6 Commission regulations do not require a campaign committee to “list sub-vendors that C&M  
7 Strategies ultimately may have hired to fulfill its responsibilities” or disclose payments made by  
8 its vendors to subcontractors in connection with the vendors’ services provided to the  
9 campaign.<sup>28</sup> Like the Committee, MichelePAC asserts that it made no effort to conceal  
10 payments to Sorenson, and that the Act does not require reporting of payments made to  
11 subvendors.<sup>29</sup> Short and C&M similarly assert that there was no effort to conceal payments to  
12 Sorenson, and that the “arrangement was indistinguishable from thousands of other  
13 contractor/subcontractor or vendor/subvendor arrangements involving services provided to

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<sup>25</sup> *Id.*

<sup>26</sup> Although NFC PAC did not list a “Purpose of Disbursement,” these are the only disbursements in late 2011 or early 2012 that are clearly associated with a media vendor. Because the disbursements at issue appear to have been made from NFC PAC’s non-contribution account (which was permitted to accept funds in unlimited amounts from individuals, corporations, labor organizations, and/or other political committees), any in-kind contributions resulting from coordination may constitute violations of 52 U.S.C. §§ 30116 and 30118 (formerly 2 U.S.C. §§ 441a and 441b). Our review revealed that NFC PAC’s non-contribution account received \$17,000 from one individual in 2011 but no funds from corporations or labor unions; accordingly, only section 441a may be implicated by this allegation.

<sup>27</sup> 2012 April Quarterly Report, 10-13. It is unclear, however, whether the resulting communications were actually distributed in advance of the January 3, 2012, Iowa Caucus.

<sup>28</sup> Committee Resp. at 4-5.

<sup>29</sup> MichelePAC Resp. at 2.



1 political committees.”<sup>30</sup> Sorenson did not file a response in this matter. He did, however, submit  
2 a response to the Iowa State Senate Ethics Committee, provided to the Commission as part of the  
3 OCE Referral, wherein he maintains that he “was never paid directly or indirectly” by either of  
4 the Bachmann Committees.<sup>31</sup>

5 In response to the allegation that MichelePAC assumed the Committee’s payment  
6 obligations, the respondents point to C&M’s invoices to MichelePAC during this period  
7 describing the services (fundraising and management consulting, a fundraising project, and a  
8 research project), and contend that these invoices indicate that MichelePAC’s payments were  
9 legitimate compensation for *bona fide* services.<sup>32</sup> Neither Short nor MichelePAC, however,  
10 provides any details about the existence of any such project in fact, including who requested  
11 work, when it was performed or completed, and how the cost was determined, despite the fact  
12 that Short would have had the authority to approve any such fundraising project for MichelePAC  
13 in December 2011.<sup>33</sup>

14 Finally, the Committee contends that the “content” standard of the coordination test is not  
15 satisfied because the Complaint does not allege that any advertisements were sponsored by NFC  
16 PAC after the alleged conversation between the campaign advisor and Hemrick occurred in late

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<sup>30</sup> Short Resp. at 2.

<sup>31</sup> OCE Referral ¶ 32, Ex. 16.

<sup>32</sup> Committee Resp. at 8-9; MichelePAC Resp. at 2.

<sup>33</sup> Bachmann MOI ¶ 46; Parrish MOI ¶¶ 28, 33-34. Short established MichelePAC at Bachmann’s direction and was “in charge” of MichelePAC during all relevant times. Bachmann MOI ¶¶ 4-5; Parrish MOI ¶¶ 26-27. According to Bachmann, Short was responsible for approving non-contribution disbursements made by MichelePAC as well as the hiring and firing of employees or consultants. Bachmann MOI ¶¶ 7-8. Short was also responsible for setting up his own consulting agreement, negotiating his own compensation arrangements, supervising his own work, and reviewing and approving the payment of invoices, including invoices from or payments to his own firm, C&M. *Id.* ¶¶ 9-13, 36; Parrish MOI ¶¶ 29, 33-34.

1 2011.<sup>34</sup> Although NFC PAC's treasurer asserts that he knows nothing about the alleged  
2 discussion, he states that Hemrick instructed him to pay for radio advertising time that Hemrick  
3 had arranged on Iowa stations prior to the January 3, 2012, Iowa caucuses.<sup>35</sup>

4 **B. Analysis**

5 1. There is Reason to Believe the Committee Violated Section 30104(b)(5)

6 The Act and Commission regulations require political committees to report the name and  
7 address of each person to whom they make expenditures or other disbursements aggregating  
8 more than \$200 per calendar year, or per election cycle for authorized committees, as well as the  
9 date, amount, and purpose of such payments.<sup>36</sup> These reporting requirements are intended to  
10 ensure public disclosure of "where political campaign money comes from and how it is spent."<sup>37</sup>  
11 Neither the Act nor the Commission's relevant implementing regulations address the concepts of  
12 ultimate payees, vendors, agents, contractors, or subcontractors in this context.<sup>38</sup> The  
13 Commission has determined, however, that merely reporting the immediate recipient of a

<sup>34</sup> Committee Resp. at 9-11.

<sup>35</sup> NFC PAC Resp. at 1.

<sup>36</sup> 52 U.S.C. § 30104(b)(5), (6) (formerly 2 U.S.C. § 434(b)(5), (6)); 11 C.F.R. § 104.3(b)(4)(i), (vi) (authorized committees); *id.* § 104.9(a), (b) (political committees).

<sup>37</sup> *Buckley v. Valeo*, 424 U.S. 1, 66 (1976); *see also Citizens United v. FEC*, 558 U.S. 310, 369-71 (2010) (describing importance of disclosure requirements to serve informational interest, because "transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages").

<sup>38</sup> Advisory Op. 1983-25 (Mondale for President) at 2. The Commission has since addressed the requirements of section 434(b)(5) in certain situations not applicable to these facts. *See* Reporting Ultimate Payees of Political Committee Disbursements, 78 Fed. Reg. 40,625, 46,026 (July 8, 2013) (clarifying committee's obligations to report "ultimate payees" in three specific scenarios not articulated in the Act or regulations: candidates who use personal funds to pay committee expenses without reimbursement; payments to credit card companies; and reimbursements to candidates who use personal funds to pay committee expenses).

1 committee's payment will not satisfy the requirements of section 30104(b)(5) when the facts  
2 indicate that the immediate recipient is merely a conduit for the intended recipient of the funds.<sup>39</sup>

3 For instance, in MUR 4872 (Jenkins), a committee hired a vendor — Impact Mail — to  
4 perform phone bank services on the committee's behalf. When the committee discovered that  
5 David Duke's name and phone number appeared on caller identification for calls placed by  
6 Impact Mail's phone bank, the committee wanted to prevent any association with Duke and  
7 sought to terminate its relationship with Impact Mail.<sup>40</sup> When this proved difficult, the  
8 committee took measures to conceal its relationship with Impact Mail by routing its payments to  
9 Impact Mail through a second, unrelated vendor, Courtney Communications, and reporting  
10 Courtney Communications as the payee on disclosure reports.<sup>41</sup> Although Courtney  
11 Communications was a vendor that provided media services for the committee during the period  
12 in question, Impact Mail was not a subvendor of Courtney Communications because Courtney  
13 Communications "had no involvement whatsoever with the services provided by Impact Mail."<sup>42</sup>  
14 Its only role was "to serve as a conduit for payment to Impact Mail so as to conceal the  
15 transaction with Impact Mail."<sup>43</sup>

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<sup>39</sup> Even though a committee may satisfy recordkeeping requirements by retaining a payee's "invoices and the Committee's canceled checks issued in payment," *see* AO 1983-25 at 2-3, a committee does not satisfy its disclosure obligations under section 30104(b)(5) by merely relying on those documents when the committee has previously instructed the payee to pass payments along to a third party that was not involved in the provision of services by the payee. Conciliation Agreement at 3, MUR 4872 (Jenkins).

<sup>40</sup> Conciliation Agreement at 2-3, MUR 4872 (Jenkins).

<sup>41</sup> *Id.* at 3-4.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 4; *see also* MUR 3847 (Stockman) (finding probable cause that committee violated section 30104(b)(5) when it paid at least vendor through a conduit).

1 As in MUR 4872 (Jenkins), here the Committee used C&M merely “to serve as a conduit  
2 for payment”<sup>44</sup> — thereby concealing the true, intended recipient of the disbursements. The  
3 Committee made the decision to hire Sorenson and negotiated the terms of his compensation,<sup>45</sup>  
4 and only out of a desire to conceal payments to Sorenson did it ultimately agree to route the  
5 money through C&M.<sup>46</sup> Sorenson took no direction from Short nor performed any work for  
6 C&M, and “it does not appear that C&M exercised any independent control over the funds it  
7 received” from the Committee that were “earmarked” for Sorenson.<sup>47</sup> By contrast, available  
8 evidence indicates that Sorenson reported to and took direction from the Committee.<sup>48</sup> Given the  
9 weight of the evidence, we agree with OCE’s conclusion that the Committee routed payments  
10 through C&M to avoid disclosing that Sorensen was the intended recipient.<sup>49</sup>

11 In its Response, the Committee argues that the Commission’s resolution on the facts  
12 submitted in Advisory Opinion 1983-25 (Mondale for President) should apply here, but that  
13 reliance is misplaced. In AO 1983-25 the Commission determined that in certain circumstances  
14 an authorized committee is not required to report separately payments the committee’s vendors  
15 make to other persons, such as payments for services or goods used in the performance of the  
16 vendor’s contract with the committee.<sup>50</sup> But assuming that C&M was a “vendor” under AO

<sup>44</sup> Conciliation Agreement at 4, MUR 4872 (Jenkins).

<sup>45</sup> OCE Referral ¶¶ 6-13.

<sup>46</sup> *Id.* ¶¶ 8-19.

<sup>47</sup> *Id.* ¶¶ 26, 28.

<sup>48</sup> Parrish Aff., Ex. C & D.

<sup>49</sup> OCE Referral ¶ 28.

<sup>50</sup> Advisory Op. 1983-25 (Mondale for President); *see* Factual and Legal Analysis at 12, MUR 6510 (Kirk for Senate *et al.*) (media consultant was a vendor where it did not hold a position with the committee, nor did it work

1 1983-25, there is no evidence that Sorenson's services as Iowa State Chair were "used in the  
2 performance of" C&M's contract with the Committee.<sup>51</sup> Rather, the facts presented in the OCE  
3 Referral suggest that the Committee agreed to Sorenson's request to be compensated for his  
4 service as its Iowa State Chair and would have paid Sorenson directly were it not for his  
5 concerns that Iowa Senate ethics rules prevented him from being paid by the Committee for his  
6 work.<sup>52</sup> The facts also suggest that Sorenson took no direction from Short and performed no  
7 work for C&M — indeed, Sorenson denies being employed by C&M.<sup>53</sup>

8 As set forth above, it appears that the Committee used C&M merely to serve as a conduit  
9 for payment — thereby failing to report the true, intended recipient of the disbursements.  
10 Accordingly, the Commission finds reason to believe that the Committee violated 52 U.S.C.  
11 § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5)).<sup>54</sup>

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exclusively for committee at any time, and where it hired multiple subvendors to aid in the performance of its contract).

<sup>51</sup> Advisory Op. 1983-25 (Mondale for President) at 2; Factual and Legal Analysis at 12, MUR 6510 (Kirk for Senate *et al.*).

<sup>52</sup> OCE Referral ¶¶ 6-17.

<sup>53</sup> *Id.* ¶¶ 26-28, 31.

<sup>54</sup> Watkins was also notified that she may have violated 52 U.S.C. § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5)) in her individual capacity. The Commission will consider a treasurer of a political committee subject to enforcement action in her individual capacity when the information indicates that the treasurer: (a) knowingly and willfully violated the Act or regulations; (b) recklessly failed to fulfill the duties imposed by a provision of the Act or regulations that applies specifically to treasurers, or (c) intentionally deprived herself of the operative facts giving rise to a violation. Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3, 6 (Jan. 3, 2005). There is no information in the Complaint or OCE Referral upon which to conclude that Watkins acted in a manner required to support an enforcement action against her in her individual capacity. Therefore, the Commission finds no reason to believe Nancy H. Watkins violated 52 U.S.C. § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5)) in her individual capacity.

2. There is Reason to Believe MichelePAC Violated Section 30104(b)(5)

Although the OCE Referral does not address the relationship between MichelePAC, C&M, and Sorenson to the same degree as that involving the Committee, C&M, and Sorenson, the Responses appear to indicate that the two sets of relationships were not materially different — that is, MichelePAC paid C&M, C&M passed along a certain amount that was designated for Sorenson, and Sorenson did not take any direction from or perform any work for C&M.<sup>55</sup> Accordingly, the Commission finds reason to believe that MichelePAC violated 52 U.S.C. § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5)).

3. There is Reason to Believe MichelePAC and the Committee Violated Section 30116

The Act provides that no multicandidate political committee shall make contributions to any candidate and his or her authorized political committee, which, in the aggregate, exceed \$5,000 per calendar year,<sup>56</sup> and no candidate or political committee shall knowingly accept contributions in violation of the limitations and prohibitions of the Act.<sup>57</sup> “Contribution” under the Act and Commission regulations includes the payment by any person of compensation for the personal services of another person rendered to a political committee without charge for any purpose.<sup>58</sup>

<sup>55</sup> OCE Referral ¶¶ 26-28, 31; Short Resp. at 2.

<sup>56</sup> 52 U.S.C. § 30116(a)(2)(A) (formerly 2 U.S.C. § 441a(a)(2)(A)).

<sup>57</sup> *Id.* § 30116(f) (formerly § 441a(f)).

<sup>58</sup> *Id.* § 30101(8)(A)(ii) (formerly § 431(8)(A)(ii)); 11 C.F.R. §§ 100.52(d), 100.54.

1           Despite the substantial evidence that Short and his company, C&M, worked full time for  
2   the Committee during November and December 2011 in anticipation of the Iowa Caucus,<sup>59</sup> the  
3   Committee did not report paying any of the \$22,500 monthly consulting fees to C&M or  
4   Sorenson/Grassroots as required by their consulting agreement.<sup>60</sup> Instead, MichelePAC (for  
5   which Short served as Executive Director) paid C&M \$5,000 on November 30, \$20,000 on  
6   December 6, and \$20,000 on January 3, for a total of \$45,000 — the same amount the  
7   Committee owed to C&M and Sorenson/Grassroots for two months of consulting services.  
8   Moreover, because Short worked full time for the Committee during November and December, it  
9   is unlikely that he would have had time to perform for MichelePAC a significant enough  
10  “fundraising and research project . . . unrelated to his work”<sup>61</sup> on the campaign to justify the  
11  \$22,500 per month payments from MichelePAC. In fact, Bachmann stated that she did not recall  
12  any such fundraising project or approving any fundraising letters for MichelePAC during this  
13  period.<sup>62</sup> Moreover, she stated that when she asked her campaign finance chairman, James  
14  Pollack, to review the payments from MichelePAC to C&M, Pollack told her it was “odd that  
15  while Mr. Short had been getting monthly retainer payments from MichelePAC, there was a  
16  lump sum payment to Mr. Short in December 2011.”<sup>63</sup> He further suggested that Short had

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<sup>59</sup>       *See supra* note 19.

<sup>60</sup>       *See* Committee Resp., Attach. C.

<sup>61</sup>       Short Resp. at 2.

<sup>62</sup>       Bachmann MOI ¶¶ 44-45.

<sup>63</sup>       *Id.* ¶ 50.

1 “‘pushed’ his retainer payments ‘together,’ either taking deferred compensation all at once or  
2 pre-paying himself for future work.”<sup>64</sup>

3 Based on the available information, it appears that MichelePAC paid the Committee’s  
4 obligations to C&M in late 2011 and early 2012, thereby making in-kind contributions to the  
5 Committee. Accordingly, the Commission finds reason to believe MichelePAC violated 52  
6 U.S.C. § 30116(a)(2)(A) (formerly 2 U.S.C. § 441a(a)(2)(A)) by making excessive in-kind  
7 contributions to the Committee and that the Committee violated 52 U.S.C. § 30116(f) (formerly  
8 2 U.S.C. § 441a(f)) by knowingly accepting those excessive in-kind contributions and 52 U.S.C.  
9 § 30104(b)(2)(D) (formerly 2 U.S.C. § 434(b)(2)(D)) by failing to report them.<sup>65</sup>  
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<sup>64</sup> *Id.* ¶¶ 49-54. There was apparently little or no oversight of Short’s work for MichelePAC or his billing practices. Bachmann appears to have given him full authority to authorize payments to himself through C&M. *See, e.g., id.* ¶¶ 5-13, 32-38.

<sup>65</sup> *See* Factual and Legal Analysis (Peace Through Strength PAC) at 5, MUR 5908 (Hunter) (Feb. 19, 2009) (finding reason to believe that presidential candidate Duncan Hunter’s leadership PAC paid for travel expenses properly attributable to Hunter’s presidential campaign). The Commission premised its reason-to-believe determination in that matter primarily on the fact that neither Hunter nor his principal campaign committee reported any contributions received or expenditures made during a period in which Hunter had been traveling the country and promoting his campaign, yet his leadership PAC had disclosed disbursements for travel expenses around the same time. *Id.* at 4-5. The subsequent investigation, however, did not contradict the respondents’ assertion that the travel expenses advanced the leadership PAC’s core mission, and the Commission ultimately dismissed the matter, noting that even if the two committees had benefitted equally from the travel disbursements, the potentially excessive contributions would have been only approximately \$100 ( $\$10,200/2 = \$5,100$ , minus the maximum allowable contribution of \$5,000). Statement of Reasons of Chairman Petersen and Commissioners Hunter, McGahn, Walther, and Weintraub at 3, MUR 5908 (Aug. 23, 2010). Unlike that matter, however, the amount at issue is not *de minimis* in the present case.